

Notice of Removal

Exhibit 1

IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA

MICHAEL HABURSKY,
Plaintiff

v.

Case No.: 2023- 11338

ERIE WATER WORKS,
Defendant

NOTICE TO DEFEND

TO: ERIE WATER WORKS
c/o Mark Wassell, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West 10th Street
Erie, PA 16501

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED. BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYERS REFERRAL SERVICE
429 West 6th Street
Erie, Pennsylvania 16507
(814) 459-4411



Timothy D. McNair, Esquire
821 State Street
Erie, PA 16501
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IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA

MICHAEL HABURSKY,
Plaintiff

v. : Case No.: 2023- 11338

ERIE WATER WORKS,
Defendant

: **JURY TRIAL DEMANDED**

COMPLAINT

NOW COMES the Plaintiff, Michael Habursky, by counsel and for his Complaint against Erie Water Works under the Americans with Disabilities Act, respectfully represents:

1. Plaintiff is 53-year-old white male residing at Harborcreek, Erie County, Pennsylvania.
2. Respondent is Erie Water Works an assumed and fictitious name of the Erie City Water Authority, a government body. It maintains its office and principal place of business at Administration Building, Foot of Chestnut Street, Erie, Pennsylvania 16507.
3. Plaintiff is a thirty-year employee of Erie Water Works. He began his employment as a full-time entry-level maintenance laborer.
4. On April 16, 2014, Plaintiff was working as a Maintenance Technician. While

working underground, he attempted to tighten a fitting with a crescent wrench. The wrench slipped causing his hand to hit something sharp, severing two tendons.

5. Respondent Water Works acknowledged Plaintiff's injury as a Workers' Compensation claim and has paid for his medical treatment to date, as well as indemnity for the time he was unable to work, ending in July 2014. Plaintiff continues to require occasional medical treatment due to the permanent nature of his injury.
6. Since his injury, Plaintiff has applied for at least five promotions. He has been denied promotion each time he applied.
7. On each occasion, his qualifications for the promotion were as good as or better than those of individuals who were promoted ahead of him.
8. Plaintiff bid on a Distribution Supervisor position which was given to Kevin Haley, a laborer with one year of employment at Erie Water Works.
9. An application for promotion to Grade VI Maintenance Mechanic was denied and the position given to Tyler, an outside applicant. That person was promoted to Maintenance Supervisor over Plaintiff's bid for that position one year later. The Grade VI position was eliminated at that time and was never filled.
10. Plaintiff's later application for promotion to Distribution Supervisor was denied and the position was given to Michael Perry, a laborer who had quit and who was re-employed by Defendant into the Distribution Supervisor position.
11. Approximately one year later, Plaintiff applied for a Maintenance Supervisor position which was given to Michael Perry, then the Distribution Supervisor.

12. Plaintiff has undertaken all training required of him and has performed well. He was last subjected to discipline more than eight years ago, for smoking in a truck.
13. Plaintiff has been pressured to “sign off” his Workers’ Compensation claim. On Friday, October 8th, 2022, Plaintiff had an interview for a promotion to Maintenance Supervisor. At the interview, Aaron Stankiewicz, Human Resource Manager, discussed with Plaintiff Plaintiff’s recent physician’s appointment, stating that Inservco, Respondent’s Workers’ Compensation carrier inquired about the bill for treatment and Aaron told them to pay it. Approximately a week after the interview, Plaintiff’s application for promotion was denied.
14. It is apparent from the temporal relationship between the comments concerning Plaintiff’s previous injury, record of disability, and ongoing medical treatment, coupled with the delay in the decision on his application for promotion, that Respondent has discriminated against Plaintiff based on his record of a disability or its regard for him as having a disability, which he does not have.
15. The actions of Respondent in denying Plaintiff the promotions and in promoting others with equal or less qualification is discrimination against him on the basis of a disability or based on having a record of a disability or because defendant regarded Plaintiff as disabled in violation of the Americans with Disabilities Act and the Pennsylvania Human Relations Act.

COUNT I – VIOLATION OF THE AMERICANS WITH DISABILITIES ACT (“ADA”),
42 U.S.C. §12101 ET SEQ., AS AMENDED

16. Plaintiff incorporates herein by reference the averments of paragraphs 1 through

15 of this Complaint as though fully set forth at length.

17. The actions of Defendant in refusing Plaintiff promotions for the reasons stated above was in violation of the ADA.

WHEREFORE, Plaintiff respectfully demands judgment in his favor and against Defendant in an amount in excess of the applicable limit for mandatory arbitration, together with attorney's fees, costs, interest and such other and further relief as the Court deems just.

TRIAL BY JURY OF TWELVE DEMANDED

COUNT II – VIOLATION OF THE PENNSYLVANIA HUMAN RELATIONS ACT, 43 P.S.953 ET SEQ.

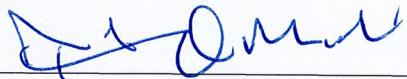
18. Plaintiff incorporates herein by reference the averments of paragraphs 1 through 15 of this Complaint as though fully set forth at length.
19. The actions of Defendant in refusing Plaintiff promotions for the reasons stated above was in violation of the Pennsylvania Human Relations Act.

WHEREFORE, Plaintiff respectfully demands judgment in his favor and against Defendant in an amount in excess of the applicable limit for mandatory arbitration, together with attorney's fees, costs, interest and such other and further relief as the Court deems just.

TRIAL BY JURY OF TWELVE DEMANDED

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

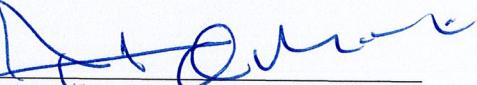


Timothy D. McNair, Esquire

Respectfully submitted,

MCNAIR LAW OFFICES, PLLC

By:



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IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA

MICHAEL HABURSKY,
Plaintiff

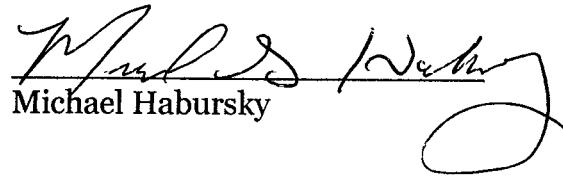
v. : Case No.: 2023- 11338

ERIE WATER WORKS,
Defendant

VERIFICATION

I, Michael Habursky, have read the foregoing Complaint and attest that the statements therein contained are accurate to the best of my knowledge, information and belief. This verification is made subject to the penalties of perjury.

Date: 10/3/23


Michael Habursky

IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA

MICHAEL HABURSKY,
Plaintiff

v.

Case No.: 2023- 11338

ERIE WATER WORKS,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Complaint was emailed and/or mailed by First Class U.S. mail, postage prepaid on this 4th day of October, 2023:

Mark Wassell, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West 10th Street
Erie, PA 16501

Respectfully submitted,

MCNAIR LAW OFFICES, PLLC

By:



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